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Idaho's Mtn SJ

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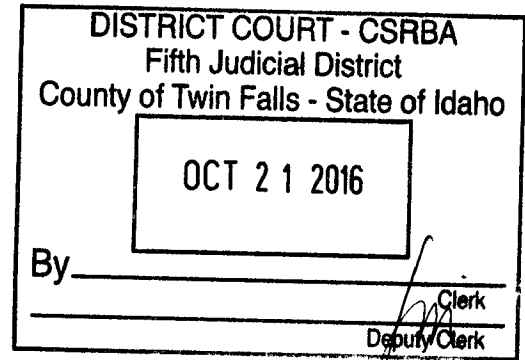
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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re CSRBA) Consolidated Subcase No. 91-7755
)
Case No. 49576) STATE OF IDAHO'S MOTION
) FOR SUMMARY JUDGMENT
)
)
_____)

Objector State of Idaho, pursuant to Idaho Rule of Civil Procedure 56, and in compliance with this Court's *Order Consolidating Subcases; Order Bifurcating Proceedings, and Scheduling Order*, entered February 17, 2015, and this Court's *Order Granting Joint Motion to Amend Scheduling Order*, entered August 4, 2016, hereby moves the Court to enter an order on summary judgment that:

- 1) denies all claims for instream flows for fish habitat outside the current boundaries of the Coeur d'Alene Reservation;

2) allows claims for irrigation to proceed to the quantification phase of these bifurcated proceedings subject to the requirement that the United States and the Tribe prove, for each place of use, that irrigation water rights are necessary to fulfill the purpose of the Reservation by showing that basic crops cannot be profitably grown at the place of use without irrigation, and further require that all irrigation claims are subject to further hearing regarding the practicability of irrigation and the applicable priority date for each claimed place of use;

3) denies the following DCMI claims as not implied by the primary purposes of the Reservation: Claim No. 93-7462 (Casino and Hotel Complex Well); Claim No. 93-7463 (Circling Raven Golf Course); Claim No. 93-7464 (Casino and Hotel Complex expansion); Claim No. 93-7465 (RV Park adjacent to Circling Raven Golf Course); Claim No. 93-7466 (Water Park); Claim No. 95-16671 (Golf Course); Claim No. 95-16675 (Golf Course Pond Maintenance); Claim No. 95-16669 (fish hatchery);

4) allows the remaining DCMI claims to proceed to the quantification phase of these bifurcated proceedings subject to quantity objections; and further requiring that all remaining DCMI claims are (1) limited to places of use within the Reservation boundaries, and (2) subject to further hearing regarding the applicable priority date for each claimed place of use;

5) allows Claim No. 96-166772, for wells to serve “self-supplied rural residential households,” to proceed to the quantification phase of these bifurcated proceedings for those wells within the current boundaries of the Coeur d’Alene Reservation, subject to objections regarding the number of wells and annual volumetric limits;

6) denies all claims for “springs and/or seeps,” and claims for “wetlands and/or riparian areas *in situ*,” provided, that to the extent the Court recognizes such claims they be

subject to further hearing regarding quantification and the applicable priority dates for the claimed places of use;

7) denies all claims for on-reservation instream flows for fish habitat, provided, that in the event the Court does not deny all such fish habitat claims for the reason that such claims are not consistent with the primary purpose of the Reservation, then the Court should deny all such fish habitat claims where the beds and banks of the subject waterways are owned by persons who are not members of the Tribe, and schedule any remaining claims for hearing of quantification objections;

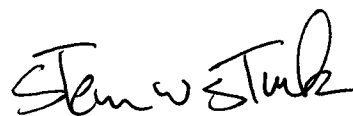
8) denies Claim No. 95-16704 for *in situ* maintenance of the natural elevation of Coeur d'Alene Lake.

This motion is supported by the record in this consolidated subcase, the State of Idaho's Memorandum in Support of Motion for Summary Judgment, and the Affidavits of Steven W. Strack and David B. Shaw, filed contemporaneously herewith.

Respectfully submitted this 20th day of October, 2016.

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing State of Idaho's Motion for Summary Judgment was mailed on October 20, 2016, with sufficient first-class postage to the following:

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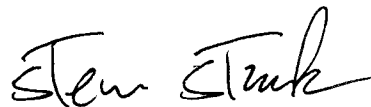
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